

OFFICE OF THE GOVERNOR  
STATE OF MONTANA

BRIAN SCHWEITZER  
GOVERNOR



JOHN BOHLINGER  
LT. GOVERNOR

September 30, 2005

Honorable Mike McGrath  
Attorney General  
P.O. Box 201401  
Helena, MT 59620-1401

Dear Attorney General McGrath:

I am writing to present a status report as to the State of Montana's progress toward establishing a "basic system of free quality public elementary and secondary schools," pursuant to Article X, section 1(3) of the Montana Constitution and as directed by the Montana Supreme Court in *Columbia Falls Elementary School District No. 6 v. State of Montana*, 2005 MT 69. I request that you submit this status report to the district court at the appropriate time.

Since the Supreme Court decision, many individuals dedicated to improving Montana's education system have accomplished much work. I want to take this opportunity to thank those individuals who have devoted themselves to this task, especially members of the Quality Schools Interim Committee and those who have supported their work. An investment in education is an investment in Montana's future.

As background, the Montana Supreme Court, in *Columbia Falls*, held that in order to establish a system for funding Montana's public elementary and secondary schools which satisfies the constitutional standard of a "basic system of free quality . . . schools," the state must: 1) enact a definition of "quality" education; and 2) devise and fund a system that correlates with and is grounded in principles of quality. The Court "deferred" to the Legislature the responsibility for accomplishing these tasks.

#### Definition of Quality Education Enacted

The first of the tasks identified by the Montana Supreme Court was completed by the 2005 Legislature with passage of Senate Bill No. 152 ("SB 152"), 2005 Mont. Laws Ch. 208. For the first time, Montana has defined what a quality K-12 educational system means. Without reiterating SB 152 in its entirety, a summary of the comprehensive characteristics of a "basic system of free quality public elementary and secondary schools," set forth in the legislation, includes:

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- an educational program specified by accreditation standards;
- educational programs to provide for students with "special needs";
- educational programs to implement Montana's constitutional requirement of preserving the "distinct and unique cultural heritage of the American Indians";
- qualified and effective teachers, administrators, and staff;
- student transportation;
- facilities and distance learning technologies associated with meeting accreditation standards;
- measurements of student achievement; and
- local control.

As determined in SB 152, these features, in sum, comprise a quality educational system. They are consistent with the Montana Supreme Court's statement in *Columbia Falls* that the cornerstones of a quality education require a funding system to relate to needs "such as academic standards, teacher pay, fixed costs, costs of special education, and performance standards." 2005 MT 69 at 26.

#### Devise Funding System Grounded in Principles of Quality Education

The second of the tasks identified by the Montana Supreme Court was to devise a funding system grounded on principles of quality education, as defined above. In that regard, SB 152 took the initiative by defining educationally relevant factors to which a funding system ~~must be correlated~~. These educationally relevant factors include:

- the number of students in a district;
- the needs of isolated schools with low population density;
- the needs of urban schools with high population density;
- the needs of students with special needs;
- the needs of American Indian students; and
- the recruitment and retention of qualified teachers and other personnel.

As well, the 2005 Legislature passed Senate Bill No. 525 ("SB 525"), which established a Quality Schools Interim Committee. The Committee is composed of four members of the House of Representatives (two from each party), four members of the Senate (two from each party), the presiding officer of the Board of Public Education (or the officer's designee), the Superintendent of Public Instruction (or the Superintendent's designee), and the Governor (or the Governor's designee).

SB 525 directs the committee to, by December 1, 2005:

- assess the educational needs of Montana children;
- determine the costs of providing a quality education;
- determine the state's share of the costs; and

- construct a funding formula in accordance with requirements contained in the legislation.

The Quality Schools Interim Committee has met thirteen times since the Legislature adjourned. Members have considered volumes of information and reports prepared by contracted education consultants, legislative staff, staff from the Governor's Office, and staff from the Office of Public Instruction. These research subjects have included a needs assessment and cost analysis; teacher recruitment and retention; student achievement, including achievement of American Indian students; health benefits; school facilities; and specific issues related to school size, among others. Recently, the committee passed a motion establishing specific components that will serve as the basis of a funding formula, rooted in the definition of a quality education.

In addition to meetings of the full committee, a working group was formed, which meets weekly, to further analyze and distill data and develop recommendations to assist the full committee in moving forward to craft a funding formula. The working group consists of legislative staff researchers and lawyers, legislative fiscal analysts, staff from the Governor's budget office, staff from the Office of Public Instruction, staff from the Montana Senate, and education community liaisons.

#### Funding by the 2005 Legislature Prior to Enactment of a Long-Term Solution

##### 1. Indian Education for All

In addition to the directives to define what is meant by quality education and craft a funding system related to the definition, the Montana Supreme Court affirmed the district court's conclusion that the State of Montana had failed to implement Article X, section 1(2) of the Montana Constitution, to "recognize the distinct and unique cultural heritage of American Indians" and commit in its educational goals the "preservation of their cultural integrity."

As stated above, the definition of a "basic system of free quality public elementary and secondary schools" contained in SB 152 expressly includes educational programs to implement the constitutional provision "through development of curricula designed to integrate the distinct and unique cultural heritage of American Indians into the curricula, with particular emphasis on Montana Indians." It also requires, as an educationally relevant factor for purposes of developing a funding system, consideration of "the needs of American Indian students."

Notably, the 2005 Montana Legislature, for the first time in Montana history, appropriated money to fund the constitutional provision (\$3.4 million for the 2006-07 biennium).

## 2. Increased Funding for K-12 by 2005 Legislature

The 2005 Legislature increased funding for Montana's K-12 schools by appropriating more than \$88 million in new money for the biennium – an historic increase. Among the items included in the funding were:

- 3-year averaging of ANB (average number belonging), designed to alleviate concerns of fixed costs for schools with declining enrollments;
- inflationary increases in entitlements for the biennium;
- additional increases in entitlements above the inflationary increases, with greater increases to elementary schools so as to narrow the gap between funding for elementary and secondary schools (it is expected these increases will be used by schools to help with recruitment and retention of teachers and other staff);
- increased facility payments to maintain the State's share at approximately 25%;
- increases in special education funding above inflation (totaling 9.2% over the 2005 biennium);
- funding for a student education data system to monitor the efficacy of the education system; and
- increases in gifted and talented grants to the schools and the creation of a part-time position within the Office of Public Instruction for the specific purpose of assisting schools to provide gifted and talented education.

## Governor's Proposals

In addition to the above, this administration has provided the Quality Schools Interim Committee several proposals for consideration to move Montana's education system forward consistent with the court decision:

- A voluntary health care package that includes State of Montana assumption of "high-cost" insurance claims, along with other health benefits;
- A one-time appropriation of \$100 million into Montana's teacher retirement system to address a system that is not financially sound; and
- A one-time appropriation of \$25 million for facility maintenance and increased energy efficiency.

## Where We Stand Today

The above information summarizes what has happened to date since the Montana Supreme Court's decision affirming the district court ruling that Montana's school funding system is unconstitutional. At present, the Quality Schools Interim Committee believes it has enough information to construct a funding system (although it may continue to gather further information in targeted areas).

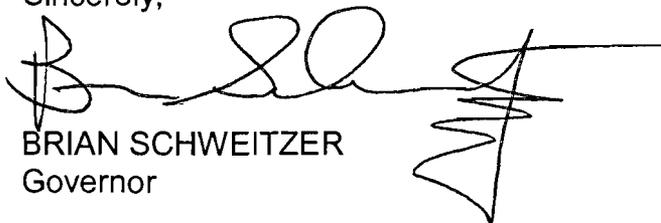
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As I write this letter today, the Legislature:

- has defined quality education;
- has appropriated \$88 million in new money this biennium to Montana's elementary and secondary schools; and
- is in the process of devising a funding formula grounded in research and data correlated to the definition of quality education enacted in SB 152, through the Quality Schools Interim Committee.

I want to assure the court that the legislative and executive branches of government are making progress in addressing the constitutional challenge to assure all Montanans access to a basic system of quality education. As we continue to work together, we will build a stronger education system for our children.

Sincerely,



BRIAN SCHWEITZER  
Governor

